

Sec. 99. Section 12-217ll of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to income years commencing on or after January 1, 2010*):

(a) As used in this section:

(1) "Commissioner" means the Commissioner of Revenue Services.

(2) ["Commission" means the Connecticut Commission on Culture and Tourism]
"Department" means the Department of Economic and Community
Development.

(3) "Digital animation production company" means a corporation, partnership, limited liability company or other business entity engaged exclusively in digital animation production activity on an ongoing basis, and that is qualified by the Secretary of the State to engage in business in the state.

(4) "State-certified digital animation production company" means a digital animation production company that (A) maintains studio facilities located within the state at which digital animation production activities are conducted, (B) employs at least two hundred full-time employees within the state, (C) is in compliance with regulations adopted pursuant to subsection (h) of this section, and (D) has been certified by the [commission] department.

(5) "Digital animation production activity" means the creation, development and production of computer-generated animation content for distribution or exhibition to the general public, but not for the production of any material for which records are required to be maintained under 18 USC 2257 with respect to sexually explicit content.

(6) "Full-time employee" means an employee required to work at least thirty-five hours or more per week, and who is not a temporary or seasonal employee.

(7) "Post-certification remedy" means the recapture, disallowance, recovery, reduction, repayment, forfeiture, decertification or any other remedy that would have the effect of reducing or otherwise limiting the use of a tax credit provided by this section.

(8) "Production expenses or costs" means all expenditures clearly and demonstrably incurred in the state in the development, preproduction, production or postproduction costs of a digital animation production activity, including:

(A) Expenditures for optioning or purchase of any intellectual property including, but not limited to, books, scripts, music or trademarks relating to the development or purchase of a script, screenplay or format, to the extent that such expenditures are less than thirty-five per cent of the production expenses or costs incurred by a digital animation production company in any income year. Such expenses or costs shall include all expenditures generally associated with the

optioning or purchase of intellectual property, including option money, agent fees and attorney fees relating to the transaction, but shall not include any and all deferrals, deferments, profit participation or recourse or nonrecourse loans which the digital animation production company may negotiate in order to obtain the rights to the intellectual property;

(B) Expenditures incurred in the form of either compensation or purchases including production work, production equipment not eligible for the infrastructure tax credit provided in section 12-217kk, as amended by this act, production software, postproduction work, postproduction equipment, postproduction software, set design, set construction, props, lighting, wardrobe, makeup, makeup accessories, special effects, visual effects, audio effects, actors, voice talent, film processing, music, sound mixing, editing, location fees, soundstages, rent, utilities, insurance, administrative support, systems support, all reasonably-related expenses in connection with digital animation production activity, and any and all other costs or services directly incurred in the state in connection with a state-certified digital animation production company;

(C) Expenditures for distribution, including preproduction, production or postproduction costs relating to the creation of trailers, marketing videos, short films, commercials, point-of-purchase videos and any and all content created on film or digital media, including the duplication of films, videos, CDs, DVDs and any and all digital files now in existence and those yet to be created for mass consumer consumption; the purchase, by a company in the state, of any and all equipment relating to the duplication or mass market distribution of any content created or produced in the state by any digital media format which is now in use and those formats yet to be created for mass consumer consumption; and

(D) "Production expenses or costs" does not include the following: (i) Compensation in excess of fifteen million dollars paid to any individual or entity representing an individual, for services provided in a digital animation production activity and, on or after January 1, 2010, compensation subject to Connecticut personal income tax in excess of twenty million dollars paid in the aggregate to any individuals or entities representing individuals, for star talent provided in a digital animation production activity; (ii) media buys, promotional events or gifts or public relations associated with the promotion or marketing of any digital animation production activity; (iii) deferred, leveraged or profit participation costs relating to any and all personnel associated with any and all aspects of the production, including, but not limited to, producer fees, director fees, talent fees and writer fees; (iv) costs relating to the transfer of the digital animation tax credits; [and] (v) any amounts paid to persons or businesses as a result of their participation in profits from the exploitation of the digital animation production activity; and (vi) any expenses or costs relating to an independent certification, as required by subsection (c) of this section, or as the department may otherwise require, pertaining to the amount of production

expenses or costs set forth by a state-certified digital animation company in its application for a digital animation tax credit.

(b) (1) The [Connecticut Commission on Culture and Tourism] Department of Economic and Community Development shall administer a system of tax credit vouchers within the resources, requirements and purposes of this section for digital animation production companies undertaking digital animation production activity in the state.

(A) For income years commencing on or after January 1, 2007, but prior to January 1, 2010, any state-certified digital animation production company incurring production expenses or costs in excess of fifty thousand dollars shall be eligible for a credit against the tax imposed under chapter 207 or this chapter, equal to thirty per cent of such production expenses or costs.

(B) For income years commencing on or after January 1, 2010, (i) any state-certified digital animation production company incurring production expenses or costs of not less than one hundred thousand dollars, but not more than five hundred thousand dollars, shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to ten per cent of such production expenses or costs, (ii) any such company incurring such expenses or costs of not less than five hundred thousand one dollars, but not more than one million dollars, shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to fifteen per cent of such production expenses or costs, and (iii) any such company incurring such expenses or costs of more than one million dollars shall be eligible for a credit against the tax imposed under chapter 207 or this chapter equal to thirty per cent of such production expenses or costs.

(2) Any credit allowed pursuant to this section may be sold, assigned or otherwise transferred, in whole or in part, to one or more taxpayers, provided no credit, after issuance, may be sold, assigned or otherwise transferred, in whole or in part, more than three times.

(3) Any credit allowed pursuant to this section shall be claimed against the tax imposed under chapter 207 or this chapter, for the income year in which the production expenses or costs were incurred, and may be carried forward for the three immediately succeeding income years. Any digital animation tax credit allowed under this section shall be nonrefundable.

(4) Any digital animation production company receiving a digital animation tax credit pursuant to this section shall not be eligible to apply for or receive a tax credit pursuant to section 12-217j, as amended by this act.

(c) (1) Not more frequently than twice during the income year of a state-certified digital animation production company, such company may apply to the [commission] department for a digital animation tax credit voucher, and shall provide with such application such information and independent certification as the [commission] department may require pertaining to the amount of such

company's production expenses or costs incurred during the period for which such application is made. Such independent certification shall be provided by an audit professional chosen from a list compiled by the department. If the [commission] department determines that the company is eligible to be issued a tax credit voucher, the [commission] department shall enter on the voucher the amount of production expenses and costs incurred during the period for which the voucher is issued and the amount of tax credits issued pursuant to such voucher. The [commission] department shall provide a copy of such voucher to the commissioner upon request.

(2) The commissioner shall charge a reasonable administrative fee sufficient to cover the department's costs to analyze applications submitted under this section.

(d) If a state-certified digital animation production company sells, assigns or otherwise transfers a credit under this section to another taxpayer, the transferor and transferee shall jointly submit written notification of such transfer to the [commission] department not later than thirty days after such transfer. If such transferee sells, assigns or otherwise transfers a credit under this section to a subsequent transferee, such transferee and such subsequent transferee shall jointly submit written notification of such transfer to the [commission] department not later than thirty days after such transfer. The notification after each transfer shall include the credit voucher number, the date of transfer, the amount of such credit transferred, the tax credit balance before and after the transfer, the tax identification numbers for both the transferor and the transferee, and any other information required by the [commission] department. Failure to comply with this subsection will result in a disallowance of the tax credit until there is full compliance on the part of the transferor and the transferee, and for a second or third transfer, on the part of all subsequent transferors and transferees. The [commission] department shall provide a copy of the notification of assignment to the commissioner upon request.

(e) Any state-certified digital animation production company that [wilfully] submits information to the [commission] department that it knows to be fraudulent or false shall, in addition to any other penalties provided by law, be liable for a penalty equal to the amount of such company's credit entered on the digital animation tax credit certificate issued under this section.

(f) [The issuance by the commission of a digital animation tax credit voucher with respect to an amount of tax credits stated thereon shall mean that none of such tax credits are subject to a post-certification remedy, and that the commission and the commissioner shall have no right, except in the case of possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. If at any time after the issuance of a tax credit voucher the commission or the commissioner determines that there was a

material misrepresentation or fraud on the part of a state-certified digital animation production company in connection with the submission of an expense report and the result of such material misrepresentation or fraud was that (1) a specific amount of tax credits was reflected on the tax credit voucher issued in response to such expense report that would not have otherwise been so reflected, and (2) such tax credits would otherwise be subject to a post-certification remedy, such tax credits shall not be subject to any post-certification remedy and the sole and exclusive remedy of the commission and the commissioner shall be to seek collection of the amount of such tax credits from the digital animation production company that committed the fraud or misrepresentation, not from any transferee of the tax credits.] No tax credits transferred pursuant to this section shall be subject to a post-certification remedy, and the department and the commissioner shall have no right, except in the case of possible material misrepresentation or fraud, to conduct any further or additional review, examination or audit of the expenditures or costs for which such tax credits were issued. The sole and exclusive remedy of the department and the commissioner shall be to seek collection of the amount of such tax credits from the entity that committed the fraud or misrepresentation.

(g) The aggregate amount of all tax credits which may be reserved by the [commission] department pursuant to this section shall not exceed fifteen million dollars in any one fiscal year.

(h) The [commission] department, in consultation with the commissioner, shall adopt regulations, in accordance with the provisions of chapter 54, as may be necessary for the administration of this section.

Sec. 100. (NEW) (*Effective from passage*) (a) With respect to digital media and motion picture activities, the Department of Economic and Community Development shall have the following powers and duties:

(1) To promote the use of Connecticut locations, structures, facilities and services for the production and postproduction of all digital media and motion pictures and other media-related products;

(2) To provide support services to visiting and in-state production companies, including assistance to digital media and motion picture producers in securing permits from state agencies, authorities or institutions or municipalities or other political subdivisions of the state;

(3) To develop and update a resource library concerning the many possible state sites which are suitable for production;

(4) To develop and update a production manual of available digital media and motion picture production facilities and services in the state;

(5) To conduct and attend trade shows and production workshops to promote Connecticut locations and facilities;

- (6) To prepare an explanatory guide showing the impact of relevant state and municipal tax statutes, regulations and administrative opinions on typical production activities and to implement the tax credits provided for in sections 12-217jj, 12-217kk and 12-217ll of the general statutes, as amended by this act;
- (7) To formulate and propose guidelines for state agencies for a "one stop permitting" process for matters, including, but not limited to, the use of state roads and highways, the use of state-owned real or personal property for production activities and the conduct of regulated activities, and to hold workshops to assist state agencies in implementing such process;
- (8) To formulate and recommend to municipalities model local ordinances and forms to assist production activities, including, but not limited to, "one stop permitting" of digital media and motion picture and other production activity to be conducted in a municipality, and to hold workshops to assist municipalities in implementing such ordinances;
- (9) To accept any funds, gifts, donations, bequests or grants of funds from private and public sources for the purposes of this section;
- (10) To request and obtain from any state agency, authority or institution or any municipality or other political subdivision of the state such assistance and data as will enable the department to carry out the purposes of this section;
- (11) To assist and promote cooperation among all segments of management and labor that are engaged in digital media and motion pictures; and
- (12) To take any other administrative action which may improve the position of the state's digital media and motion picture production industries in national and international markets.

(b) On or before January 1, 2010, and annually thereafter, the Department of Economic and Community Development shall submit to the joint standing committees of the General Assembly having cognizance of matters relating to commerce and finance, revenue and bonding, in accordance with section 11-4a of the general statutes, a report on the activities of the department under this section and the estimated direct and indirect economic impact of all digital media, motion pictures and related production activity in the state, during the preceding calendar year. Each such report shall include, but not be limited to, an analysis of the use of the film production tax credit established under section 12-217jj of the general statutes, as amended by this act, the entertainment industry infrastructure tax credit established under section 12-217kk of the general statutes, as amended by this act, and the digital animation production tax credit established under section 12-217ll of the general statutes, as amended by this act, and shall include a description of each production or project for which a tax credit has been issued, the amount of any such tax credit and the total amount of production expenses or costs incurred in the state by the taxpayer who was issued such a tax credit and any other information that may be requested by a

chairperson of the joint standing committees of the General Assembly having cognizance of matters relating to commerce and finance, revenue and bonding.

Sec. 101. (NEW) (*Effective from passage*) Notwithstanding any provision of the general statutes, each state agency, department or institution issuing a request for proposals for any digital media, motion picture or related production activity shall, at the time of such issuance, transmit a copy of such request for proposals to the Department of Economic and Community Development. Said department shall notify the executive head of each state agency of the requirements of this section.